



# **OCC Newsletter**

## **Summer 2005**

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### **OCC CONTINUING TO FIGHT ISO-NEW ENGLAND'S PROPOSED LOCATIONAL INSTALLED CAPACITY CHARGES; CONGRESS JOINS THE BATTLE**

The Office of Consumer Counsel (OCC) is continuing its aggressive opposition to the proposal by ISO-New England, the operator of the electric grid, to assess very expensive charges, called locational installed capacity (LICAP) payments, on Connecticut's and New England's electric consumers.

LICAP payments are a form of capacity payment -- the payments are made to power plants just for being available to serve. Capacity payments like LICAP are separate from payments for the actual energy produced by the power plant. The "locational" aspect of LICAP means that higher payments are made to power plants in constrained areas in New England, including Southwest Connecticut and the Boston area. However, all of Connecticut and New England will suffer dearly if ISO-New England's impractical and economically dangerous LICAP plan is approved by the Federal Energy Regulatory Commission (FERC).

In Connecticut, the LICAP plan, if approved, is going to cost between \$500 million and \$1 billion per year over the next five years. The average residential ratepayer using 700 kilowatt-hours per month will see an increase in his or her electric bill of between \$15 and \$25 per month, i.e. an increase of up to 33%. For a typical small business, LICAP will result in electric bill increases of approximately \$75 to \$125 per month. Moreover, power-dependent industrial businesses may simply not be able to absorb an increase of up to 33% in their electric bills. While there may be certain offsets to these amounts which are not yet fully known, any such offsets will be dwarfed by the gross LICAP payments.

The purported intention of LICAP is to provide incentives for power plant owners and utilities to add power plants and implement system improvements so as to promote electric reliability. However, most or all of New England's Governors, Utility Commissions, Attorneys General, Consumer Advocates, as well as many business owners and trade associations, believe that the amount set for LICAP payments is grossly excessive. Moreover, it is doubtful that the LICAP payment structure will actually work as intended.

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OCC has been aggressively fighting LICAP side-by-side with the Department of Public Utility Control (DPUC), the Connecticut Attorney General's Office (AG), the Connecticut Municipal Electric Energy Cooperative, and others. Now, Governor Rell and the entire New England Congressional Delegation have unanimously expressed their concerns and doubts about LICAP as well. After OCC (including Consumer Counsel Mary Healey), DPUC, AG and many others voiced their concerns at the U.S. Capitol, the entire New England Congressional Delegation, Democrats, Republicans and Independents alike, sent letters to new FERC Chairman Kelliher opposing the implementation of LICAP charges.

These concerted efforts to stop LICAP may be working. On August 10, 2005, FERC issued an order that will, at a minimum, delay LICAP for nine months (until at least October 1, 2006) and may be an indication that the mechanism will be reconsidered in its entirety. While it is way too early to declare a victory, this is a hopeful sign that the voices of ratepayers are being heard and heeded.

If LICAP payments are eventually approved, it would have a devastating impact on our economy. Connecticut already pays some of the highest electric rates in the nation. This LICAP proposal would further reduce Connecticut's ability to compete in the global and national market. Thus, OCC will continue to fight the LICAP proposal by every available method. OCC is also working with other parties in attempt to develop effective, lower cost alternatives to LICAP.



## **THE CONNECTICUT ENERGY EFFICIENCY FUND PUBLIC AWARENESS CAMPAIGN UNDERWAY**

The Connecticut Energy Efficiency Fund board unveiled a new web site, <http://www.ctsavesenergy.org/>, and a logo public awareness campaign with a press conference held in the Old Judiciary Room of the State Capitol. Hosted by Consumer Counsel Mary Healey, those speaking of the need for customers to respond to energy efficiency efforts to help reduce cost, save energy and help reduce pollution and greenhouse gases, were Attorney General Blumenthal, Commissioner Gina McCarthy of the Department of Environmental Protection, chair of the Energy & Technology Committee Senator John Fonfara, CL&P president Ray Necchi, and UI president Tony Vallillo.

The public awareness campaign will last approximately six months with the message of "Savings Without Sacrifice," which expressly attempts to empower customers to be energy efficient by making smarter energy choices and influencing long-term usage behaviors. The effectiveness of the campaign will be measured by customer use of the energy efficiency programs offered to them through the two regulated electric utilities, as well by customer awareness of and response to the opportunities available to them from programs featured on the new web site.

We encourage all utility customers to fully explore the wealth of electric conservation ideas and financial incentives available to all Connecticut residents and business owners at the exciting new website developed by the Connecticut Energy Efficiency Fund, <http://www.ctsavesenergy.org/>.



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## **OCC WORKS WITH LEGISLATORS TO COUNTERBALANCE THE INFLUENCE OF PUBLIC UTILITY LOBBYING**

The OCC was very active during the 2005 legislative session (January through June, plus a special session in July) in preventing the vast lobbying engines employed by the public utilities from achieving unwarranted advantages over ratepayer interests.

In HB-6729, the OCC had success in achieving funding authority to engage outside legal counsel to represent the office before various federal entities, and to expand the list of federal agencies before which legal counsel for the OCC may appear. An example of this need was advanced by Consumer Counsel Mary Healey at the hearings in which she reported that the OCC, with the AG and the DPUC, are united in the fighting to protect consumers and industry from the unjust, ill-conceived actions of the Federal Energy Regulatory Commission and ISO-New England. Without this authority, the OCC's ability to participate in this worthy fight was limited.

By enactment of a bill, HB-5921, proposed by Rep. Vickie Nardello, the OCC was appointed to serve on a Low-Income Residents Energy Advisory Board, an oversight board that will report and make recommendations for policy changes to the General Assembly to address energy issues relating to low-income residents. Specifically, the OCC, and other designated parties, will monitor certain residential energy policy and expenses, and assistance programs, with the goal of helping low-income households in the state which might otherwise be left behind as the benefits of electric deregulation evolve.

As the Consumer Counsel testified, it is essential that the state do everything in its power to ensure and protect affordable access to residential energy services, such as existing energy assistance and weatherization assistance programs. Lastly, it is fundamental that the impact of rates and policies is always reviewed, with low-income state residents in mind, in order to provide them with the opportunities available to other segments of the state.

Likewise, the OCC supported the successful efforts of Rep. Robert Megna of New Haven to require that any sale, or other disposition of real property that is an essential part of a utility regulated by the DPUC, be completed by public auction, or other public sale procedure. Specifically, Rep. Megna's bill requires that there be notice run, in a newspaper with substantial circulation in the county where the property is located, of the auction or sale at least once per week in the two weeks before the auction or sale. The Consumer Counsel

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testified that it is vital that ratepayers and lawmakers have the assurance that all procedures

relating to these transactions have yielded the highest possible benefits for ratepayers, while allowing public utilities to dispose of their assets in an orderly and expeditious manner.

The OCC opposed SB-1097, which was intended to eliminate much of the state regulation on SBC's operations in Connecticut, based on the alleged existence of competition for local service. This claim does not pass the smell test, since SBC is a multinational conglomerate that has made net income of \$1.4 billion to \$2.1 billion every quarter in the last four years. Specifically, the OCC demonstrated that Connecticut is at the bottom of the FCC's list of states with competitive provision of local service. In spite of the economic maxim that competition drives prices down toward costs, SBC has not lowered its local prices in decades, while services such as directory assistance, claimed by the DPUC to be "competitive," have seen prices double in the last five years.

While the general assembly heavily voted in favor of this proposed bill, Governor M. Jodi Rell vetoed the bill, stating, "I must exercise caution and act in such a way as to preserve the integrity of the legislative process and Connecticut laws by disapproving of Senate Bill 1097," citing questions raised following passage about the propriety of the participation of a DPUC commissioner while the bill was working its way through the legislative process. Governor Rell had asked the State Ethics Commission and the state Judicial Review Council for an opinion on the Commissioner's participation, but felt compelled to veto the proposal to protect the integrity of the legislative process.

The OCC was pleased and impressed by the Governor's action, in this regard, which exemplifies the level of personal and professional integrity required by state leadership. The OCC also looks forward to working with the legislature in the next session to rework this proposal to better suit the actual competitive circumstances present in the telecommunications market.

The OCC initially supported HB-6906 (7501, special session) Energy Independence, which sought to promote the use of distributed generation in the state and reduce exposure to federally mandated congestion charges. As the session proceeded, the lobbying process yielded several provisions that seriously failed to protect ratepayer interests. This caused the OCC to reconsider its position on this otherwise important legislation and through the efforts of several tenacious legislators the bill was strengthened and ultimately passed by both houses in special session (P.A. 05-1, special session). The OCC looks forward to working with the DPUC and industry participants to craft the practical responses required by this bill.





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**OCC WINS UNANIMOUS DECISION AT  
SUPREME COURT THAT UNREASONABLE SBC PROFITS OF  
\$2.8 MILLION RESULTING FROM DIMINISHED SERVICE  
QUALITY DURING A STRIKE  
MUST BE REFUNDED TO CONSUMERS**

The OCC has finally won a lawsuit against SBC Connecticut ("SBC") relating to a 1998 labor strike which it pursued all the way to the state supreme court. While SBC claimed the issue should concern its profits or labor negotiations, the OCC successfully argued to five justices, all of whom agreed in a June 21, 2005 decision, that in this case the suffering of consumers was the issue in question, not utility company profits, or its leverage over its craftspeople.

OCC argued that the statute in question was a consumer protection statute, not a rate-setting one, enacted to match company revenues during a strike to any decline in service: customers should get what they pay for . . . and NOT pay for services they don't get. The Court accepted OCC's thesis that the statute's purpose was to fulfill the legislative goal of protecting customers from the combined negative financial effects of a strike, and deterioration of their utility service.

In this case, the telephone company's profits actually increased during a strike, and the DPUC heard an abundance of evidence of consumer dissatisfaction with the service provided during the strike. Nonetheless, SBC argued that, as long as its profits did not exceed its authorized rate of return, they were not "unreasonable." The OCC directed the Court to the legislative history, which demonstrated that the statute is meant to address situations where utilities saved payroll expenses during strikes, while consumers suffered greatly diminished service.

Thus, the Court held that the OCC was correct, and that consumers are entitled to refunds totaling \$2.8 million. Due to the perennial rate of strikes at the large telephone companies, it is obvious that by avoiding labor costs during a strike, while holding consumer rates at the usual levels, utilities have the opportunity to pocket unreasonable profits. Thus, it was essential that the OCC defend the integrity of this consumer protection statute, and not allow SBC to succeed in taking the teeth out of it.



## UI RATE CASE

On July 18, The United Illuminating Company (Company) filed an application with the Department of Public Utility Control (DPUC) to increase its rates. The Company has proposed a 4-year rate plan during which customers will experience annual increases to their electric rates. Overall increases sought by the Company for the 4-years are as follows:

Year	% increase	\$ increase
2006	5.1%	\$ 37.0 million
2007	0.6%	\$ 4.4 million
2008	1.8%	\$ 12.6 million
2009	1.0%	\$ 7.0 million

The Company states that its need for this rate increase can be summarized in 4 major categories.

- Strengthen the financial position of the Company.
- Provide the workforce adequacy for the period 2006 through 2009.
- Address aging distribution infrastructure.
- Recover operating cost increases.

The Office of Consumer Counsel (OCC) is actively involved in this proceeding and will, through the course of this proceeding, have fully analyzed the Company's need for any level of rate increase. To that end, the OCC has supplemented its staff with expert consultants in the areas of: accounting, cost of equity and electrical system reliability. The review process will consist of on-site audits, requests for supplemental information and most likely 2-3 weeks of hearings. There is also an opportunity for customers to provide public comment on this rate increase request. The date for the public comment hearing has not been set, but will most likely take place on the last week of September in New Haven. Once arrangements are made, detailed notices can be found in local newspapers.

The DPUC is expected to render a decision on the Company's rate increase proposal sometime in January 2006.

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### OCC OPPOSES SCG'S RATE INCREASE PROPOSAL

Earlier this summer in Docket No. 05-03-17PH01, Application of the Southern Connecticut Gas Company For a Rate Increase, the OCC filed its expert witness testimony that recommended changes to SCG's revenue requirement and rate application. Rather than SCG's proposed rate increase of \$34,862,117, the OCC recommended an annual rate increase of \$210,510. OCC recommended setting the allowed ROE at 8.70%, compared to the currently authorized level of 10.71%, or the 11.77% that the Company has requested be implemented as a result of the current proceeding. In the proceeding, SCG has proposed numerous ratemaking changes, including reflection of merger expenses and the retention of cost savings that are a result from the Energy East Corporation's acquisition of SCG in 2000, the use of the purchased gas adjustment clause as a mechanism to reconcile working capital and uncollectible expenses, and deferral mechanisms for changes in property tax and pension and post-retirement benefits.

While OCC recognizes that SCG's service territory has been harshly impacted by hardship residential customers, and that over the last six years SCG has deferred approximately \$30 million of hardship related program costs, the level of the rate increase requested in the current proceeding is excessive. Many of the Company's requested changes in ratemaking policy are not consistent with the past precedents of the Department of Public Utility Control, the Connecticut General Statutes, or sound ratemaking practices.

Briefs will be filed in late August 2005, with a Decision set for October.

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**The Connecticut Office of Consumer Counsel** is an independent state agency authorized by statute to act as the advocate for consumer interests in all matters which may affect Connecticut consumers with respect to public service companies, electric suppliers and persons, and certified intrastate telecommunications service providers.

The Office of Consumer Counsel is authorized to appear in and participate in any regulatory or judicial proceedings, federal or state, in which such interests of Connecticut consumers may be involved, or in which matters affecting utility services rendered or to be rendered in this state may be involved.

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